

# Submission form

## Your details

This submission was completed by: *(name)* Christina Lewis

Email: Christina.lewis@cdhb.health.nz

Phone number: 03 378 6823

Organisation *(if applicable)*: Canterbury District Heath Board

Organisation address: *(street/box number)* 310 Manchester Street  
*(town/city)* Christchurch

Role *(if applicable)*: Smokefree Enforcement Officer

Signed out by Evon Currie – General Manager Public Health (on behalf of CDHB Executive Management Team)



## Additional information

I am, or I represent an organisation that is, based in:

New Zealand     Australia     Other *(please specify)*:

Click or tap here to enter text.

I am, or I represent, a: *(tick all that apply)*

Overseas manufacturer     New Zealand-based manufacturer  
 Importer     Exporter  
 Retailer     Government  
 Wholesaler or distributor     Institution (eg, university, hospital)  
 Member of the public     Non-governmental organisation  
 Other *(please specify)*:

Click or tap here to enter text.

## Privacy

We intend to publish the submissions from this consultation, but **we will only publish your submission if you give permission**. We will remove personal details such as contact details and the names of individuals.

If you do not want your submission published on the Ministry's website, please tick this box:

Do not publish this submission.

Your submission will be subject to requests made under the Official Information Act (even if it hasn't been published). If you want your personal details removed from your submission, please tick this box:

- Remove my personal details from responses to Official Information Act requests.

## Commercial interests

Do you have any commercial interests?

- I have a commercial interest in tobacco products
- I have a commercial interest in vaping products
- I have commercial interests in tobacco and vaping products
- I do not have any commercial interests in tobacco or vaping products

## Commercially sensitive information

We will redact commercially sensitive information before publishing submissions or releasing them under the Official Information Act.

If your submission contains commercially sensitive information, please tick this box:

- This submission contains commercially sensitive information.

If so, please let us know where.

Click or tap here to enter text.

## Protection from commercial and other vested interests of the tobacco industry

New Zealand has an obligation under Article 5.3 of the World Health Organisation Framework Convention on Tobacco Control (FCTC) when 'setting and implementing public health policies with respect to tobacco control ... to protect these policies from the commercial and other vested interests of the tobacco industry'.

The internationally agreed Guidelines for Implementation of Article 5.3 recommend that parties to the treaty 'should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products'.

The proposals in this discussion document are relevant to the tobacco industry and we expect to receive feedback from companies in this industry. We will consider all feedback when analysing submissions.

To help us meet our obligations under the FCTC and ensure transparency, all respondents are asked to disclose whether they have any direct or indirect links to, or receive funding from, the tobacco industry.

Please provide details of any tobacco company links or vested interests below.

Click or tap here to enter text.

## **Please return this form:**

By email to: [vaping@health.govt.nz](mailto:vaping@health.govt.nz)

By post to: Vaping Regulatory Authority, PO Box 5013, Wellington 6140.

# Consultation questions

The Ministry of Health is seeking comments on the following.

## Regulatory proposal 1: Defining and internal area

1. Which option do you support for the definition of an internal area and why?

Option B – because it should be relatively simple to assess, however, the Canterbury DHB recognises this approach would not stop smoking areas being created adjacent to covered or partially covered areas which could cause an issue around second-hand smoke.

2. If you support option c, or if option c were to proceed, would you support a 50 percent coverage threshold? If not, what threshold would you suggest and why?

If option C were to go ahead Canterbury DHB would suggest a 30% coverage of the walls and roof envelope. This would be more in keeping with the intent of the Act which aims to keep non-smokers or those who do not wish to smoke free from the harms of second hand smoke. 50% coverage can still keep in a significant amount of second hand smoke. In 2006 the U.S. Surgeon General's report noted there is no risk free level of exposure to second hand smoke; keeping the coverage area low helps keep people safer.

## Regulatory proposal 2: Specialist vape retailer approvals

3. Do you agree that being in a rural location should be a factor in determining whether to approve an application to be a specialist vape retailer with the lower threshold of 60 percent of sales from vaping products?

Yes, increasing accessibility for those who live in rural areas and wish to use vapes to quit is important.

4. Are there any other criteria that should be considered when determining whether to approve an application to be a specialist vape retailer with the lower threshold of 60 percent of sales from vaping products?

The Canterbury DHB believes consideration should be given to whether there are other stores in the rural location that have been given SVR status. Additionally, consideration should be given as to whether staff in the lower threshold SVRs are

going to be trained to educate customers on how to use vapes to quit smoking. (Unless this is already covered by new regulations as per question 5)

5. Do you agree that regulations are not necessary at this stage? If not, what do you propose should be put in regulations?

As per its previous submission to the vaping amendment bill, Canterbury DHB proposes that there be regulations to require staff serving customers within SVRs to attend mandatory training (e.g. National Training Service modules) to support customers to utilise vaping for harm reduction or smoking cessation.

## Regulatory proposal 3: Promotion, information and advice

### 3.1 Display of vaping products in retail settings

6. Do you agree that the display of vaping products should not be regulated at this stage? If you do not agree, what controls do you think should be put in place and why?

As per its previous submission to the vaping amendment bill, the Canterbury DHB suggests that generic retailers be prohibited from displaying vaping products. We believe that displaying products constitutes advertising. Vaping products should be placed in cabinets along with traditional nicotine containing substances such as cigarettes and loose tobacco.

### 3.2 Price lists given to retailers for tobacco only

7. Do you support the proposal to restrict the information allowed on manufacturers' price lists for tobacco products?

The Canterbury DHB supports the proposal to restrict information on tobacco price lists supplied to retailers. To do otherwise has the potential for the price list to become a form of advertising.

8. Is there any other information that you consider should be allowed on manufacturers' price lists for tobacco products? If so, what do you propose?

No.

### 3.3 Public health messages

9. Do you consider that other information, beyond the information that Vaping Facts already outlines, should be designated as a public health message issued by the Director-General of Health for public services and any publicly funded individuals or organisations to use? If so, what do you propose?

The messaging on the vaping facts website is geared towards those over 18 years of age who are considering taking up vaping. The Canterbury DHB believes that messaging specific to schools and how to speak to their students on the subject that goes beyond 'if you don't smoke, don't vape' is required. This is a new addictive product that has been allowed in the New Zealand market which places legal obligations on schools. Schools need to be supported in keeping their students and grounds smokefree/vapefree. While signage for the grounds is helpful in this regard it does not address helping school students being/staying vapefree themselves. Schools have already commented to the Canterbury Smokefree Enforcement Officer that the vaping facts website is not helpful for them.

The Canterbury DHB also believes that Public Health messaging on how workplaces can implement a vape free policy is required.

### 3.4 Vaping product information in retail settings

10. Do you support limiting information about vaping products in retail premises and on retailers' websites to written authorised statements (other than permitted oral communications)? If not, what do you propose?

Yes.

11. Do you support the proposed statements? If not, what do you propose?

Canterbury DHB recommends that the first statement should have the word 'much' removed so that it reads: *If you are a smoker switching completely to vaping is a less harmful option.* The evidence is currently unclear as to the extent of harm relative to tobacco consumption. The other statements are fine as they stand.

12. Do you support limiting the format of these notices so that they are consistent with tobacco product notices? If not, what do you propose?

Yes.

### 3.5 Product availability notices in retail premises

13. Do you support the proposal to align availability notices for vaping products with those for tobacco products? If not, what do you propose?

Yes, the Canterbury DHB supports the alignment of vaping product availability notices with tobacco notices as per the pictorial example supplied in the Public Consultation Document.

### 3.6 Point-of-sale information on purchase age

14. Do you agree there should be a requirement for retailers to display purchase age (R18) notices at each point-of-sale? If not, why not?

Yes. If vaping products are permitted to be on display the Canterbury DHB supports the requirement of a point of sale information sign regarding purchase age, as well as information on potential harms.

15. Do you support the proposed wording and presentation requirements? If not, what do you propose?

The proposed wording and presentation outlined is appropriate. However, the Canterbury DHB believes it needs to be clear that this is the **only** sign that is appropriate. Tobacco companies are known to create their own R18 signs that lean towards advertising in their use of colour and font.

### 3.7 Suitably qualified health workers

16. Do you agree that no additional category of person should be added to the definition of 'suitably qualified health worker'? If you do not agree, which category do you think should be added and why?

The Canterbury DHB believes an additional category for Specialist Vape Retailer staff who have undertaken the National Training Service module on vaping should be created. As noted above, we believe that it should be a requirement that SVR staff undertake such training to have an understanding of other cessation products. This would result in a customer wishing to quit smoking using vaping products being given consistent guidance in going Smokefree/vapefree. Should a customer require additional stop smoking products or support, a referral pathway to their local Stop Smoking Service should be established.

## Regulatory proposal 4: Packaging

17. Do you support the proposed wording of the health warning for vaping products? If not, what do you propose?

Yes, the Canterbury DHB supports the wording of : *"This product contains nicotine which is a highly addictive substance"* and would wish to add: *"The long term risk of using vaping products is unknown."* (Please add it in Te Reo Māori as well).

18. Do you agree with the proposed requirements for the health warning panel for vaping products? If not, what do you propose?

Yes, however the Canterbury DHB would support this health warning panel being part of the requirement for standardised (plain) packaging of this product.

19. Do you support the proposed wording of the health warning for smokeless tobacco products? If not, what do you propose?

Yes, however the Canterbury DHB would support this health warning being part of the requirement for standardised (plain) packaging of this product – although potentially without the pictorial health warnings.

20. Do you agree with the proposed requirements for the health warning panel for smokeless tobacco products? If not, what do you propose?

Yes, however, the Canterbury DHB would support this health warning panel being part of the requirement for standardised (plain) packaging of this product.

21. Do you agree with the proposals for product presentation for vaping products? If not, what do you propose?

The Canterbury DHB supports standardised (plain) packaging for all vaping products, although without the pictorial health warnings

22. Do you agree with the safety messaging statements? If not, what changes to them do you suggest?

Yes.

23. Do you agree with the proposals for product presentation for smokeless tobacco products? If not, what do you propose?

Yes, however the Canterbury DHB supports standardised (plain) packaging for smokeless tobacco products – although potentially without the pictorial health warnings.

24. How much time do you think smokeless tobacco product manufacturers should have before they need to comply with new packaging requirements? Please give reasons.

The Canterbury DHB supports smokeless tobacco product manufacturers being given the same timeframes that traditional tobacco products were given. Manufacturers and importers of smokeless tobacco products are aware that regulations are going to be created regarding their product. If traditional tobacco manufacturers could work to this timeframe then so can smokeless tobacco product manufacturers.

25. Do you agree with the proposed instructions on and in the packaging? If not, what changes to them do you suggest?

Yes, although as per its previous submission on the vaping amendment bill the Canterbury DHB recommends that instructions include a message around the environmentally sustainable disposal of the products such as recycling, as well as not littering.

26. Do you agree with allowing track and trace markings? If not, why not?

The Canterbury DHB supports allowing track and trace markings but would expect that all the other standardised packaging requirements for the New Zealand market would also be met.

27. Do you support the proposal to restrict the quantity of smokeless tobacco sticks in a package to 20 or 25? If not, what do you propose?

Yes.

28. How much time do you think manufacturers of vaping products and smokeless tobacco products should have before they need to comply with new packaging requirements? Please give reasons.

The Canterbury DHB supports vaping and smokeless tobacco product manufacturers being given the same timeframes that traditional tobacco products were given for compliance. Again, the manufacturers and importers of vaping products and smokeless tobacco products will have been aware that packaging requirements are likely to be placed upon them so this will not be a surprise for them.

# Regulatory proposal 5: Product notification and safety

## 5.1 Product notification requirements

29. Do you agree that these are the right details for the Ministry of Health to collect for each notifier? If not, what changes would you make to the details collected?

The Canterbury DHB supports the collection of these details, however, there needs to be a requirement for the notifier to confirm the details every year and have a short timeframe (3 months) for the notifier to let the Ministry know of any changes e.g. company directors, addresses etc.

30. Do you agree that the notifier should declare that they meet the current requirements of the Act? If not, what approach to enforcing the provisions of the Act do you suggest?

Yes, the Canterbury DHB supports the notifier being required to declare that they meet the current requirements of the Act. However, proof should also be required that substantiates the accuracy of the declaration.

31. Do you agree that these are the right details for the Ministry of Health to collect for each notifiable product? If not, what changes would you make to the details collected?

Yes.

32. Do you agree that the notifier should declare that each product meets the current requirements of the Act? If not, what approach to enforcing the provisions of the Act do you suggest?

The Canterbury DHB supports the requirement for the notifier to make a declaration on each notified product. However, the declaration should be supported by proof provided by a laboratory as per Appendix A point 32 which requires testing in an appropriately certified laboratory.

## 5.2 Product safety requirements

33. Do you agree with our approach of basing product safety requirements on the EU and UK legislation and guidance? If not, what approach to our product safety requirements do you suggest we use?

The Canterbury DHB agrees with the approach to base product safety requirements on EU and UK legislation and guidance which restricts such things as maximum volume for liquids, limits on nicotine concentration, hazardous ingredients and the

requirement to display health warning labels. The Canterbury DHB accepts that high strengths of nicotine are necessary for people who smoke to successfully quit. From a public health perspective we are also concerned with both the harm nicotine can have on cognitive development in young people and the potential harm nicotine addiction could have on people the product is not intended for.

34. Do you agree with the product controls we are proposing to include in the product safety requirements? If not, what changes to the areas that the product safety requirements cover do you suggest?

Yes.

35. After reviewing our full proposal in Appendix A, do you agree with our proposed product safety requirements? If not, what changes to them do you suggest?

No comment.

## Regulatory proposal 6: Annual reporting and returns

36. Do you support the proposals for manufacturers' and importers' annual sales reports? If not, what do you propose?

Yes

37. Do you support the proposals for specialist vape retailers' annual sales reports? If not, what do you propose?

Yes, however, the Canterbury DHB would also support the ability to easily access the sales reports by region.

## Regulatory proposal 7: Fees

38. Do you agree the Ministry of Health should charge for the activities identified? If not, what activities do you suggest we charge for?

The Canterbury DHB agrees that the Ministry of Health should charge for the activities and wants to ensure that the fees for the activities should be enough to cover the work of additional Smokefree Enforcement Officers to undertake the extra workload in education and enforcement.

39. Do you agree with the way the fees are structured? If not, how should they be structured?

No comment

40. Do you agree with the level of each of the fees? If not, how much do you suggest the Ministry of Health should charge?

No comment

41. Do you agree with our assumptions on annual volumes of work? If not, what assumptions do you suggest we use?

No comment

42. How many products do you anticipate notifying yourself?

No comment

43. Are there additional issues relating to fees and charges that you would like us to consider?

The Canterbury DHB recognises the impact vaping/smokeless tobacco products have on Smokefree Enforcement Officer's compliance visits and future enforcement. The significant increase in time required to explain legislation is impacting the time available for other enforcement work. If the Ministry of Health wishes to have effective education and enforcement of the Act/Regulations, it needs to fund additional Smokefree Enforcement Officers.

44. Do you agree that we should reduce fees for very low-volume products? If not, how would you suggest the Ministry of Health handles very low-volume products?

The Canterbury DHB does not agree with a reduction of fees for very low volume product. Having lower fees for low volume products will simply keep the range of supply high. We do not believe it is in the public's interest to have large ranges of addictive products available.

45. How would you suggest we define very low-volume products?

No comment

46. Do you have suggestions for the design of any provisions, including suggestions for: (a) limits on the number of products that any notifier can have fee exemptions for (b) administrative efficiency (c) any other issues that might be associated with low-volume products?

No comment